

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

RUSLAN KIRILYUK,

Plaintiff,

v.

CORE CIVIC, *et al.*,

Defendants.

Case No. 2:20-cv-01253-APG-EJY

ORDER

I. DISCUSSION

On July 10, 2020, this Court directed Plaintiff to file a fully complete application to proceed *in forma pauperis*, with complete financial attachments, including both a financial certificate and an inmate account statement for the dates Plaintiff has been present at the facility, no later than September 7, 2020. (ECF No. 3).

On July 15, 2020, Plaintiff filed a response to the Court's July 10, 2020 Order indicating he has not been able to obtain an inmate account statement for the dates he has been present at the facility due to the institution's refusal of the request. (ECF No. 4).

Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to commence a civil action may apply to proceed *in forma pauperis*, which allows the inmate to file the civil action without prepaying the full \$400 filing fee. To apply for *in forma pauperis* status, the inmate must submit all three of the following documents to the Court:

(1) a completed **Application to Proceed in Forma Pauperis for Inmate**, on this Court's approved form (i.e. pages 1 through 3 with the inmate's two signatures on page 3),

(2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official (i.e. page 4 of this Court's approved form), and

(3) a copy of the **inmate's prison or jail trust fund account statement for the previous six-month period**. If Plaintiff has not been at the facility a full six-month period, Plaintiff must still submit an inmate account statement for the dates he has been present at the facility.

1 To date, Plaintiff has not filed any inmate account statement in this case. As previously
2 stated, if Plaintiff has not been at the facility a full six-month period, Plaintiff must still submit an
3 inmate account statement for the dates he has been present at the facility. The Court is aware that
4 officials at Nevada Southern Detention Center are capable of producing an inmate account statement
5 for inmates present at the facility less than six months because the Court has received such statements
6 in similar cases.

7 It is important that Plaintiff understand that a financial certificate and an inmate account
8 statement are not the same thing. Documentation concerning a financial certificate is not
9 documentation about an inmate's account statement. If Plaintiff has difficulty obtaining both a
10 financial certificate and an inmate account statement from prison officials, Plaintiff shall file an
11 affidavit detailing when he requested both documents, who he spoke to about the status of both
12 documents, who he followed up with after he did not receive both documents, and their responses.
13 Therefore, the affidavit must describe Plaintiff's efforts to obtain both a financial certificate and an
14 inmate account statement.

15 Specifically, if Plaintiff is unable to acquire the necessary documents from prison officials,
16 after making efforts to do so following receipt of this Order, he must provide the Court with an
17 affidavit that demonstrates he has done all that he could to acquire both a financial certificate and an
18 inmate account statement by the Court's deadline. Plaintiff's affidavit should include dates of his
19 requests, dates of his follow-up requests, names of the prison officials that he spoke to about the
20 matter, and their responses. If Plaintiff's affidavit demonstrates that he has done all that was possible
21 to acquire both a financial certificate and an inmate account statement, the Court shall consider his
22 application to proceed *in forma pauperis* complete.¹

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26 ¹ Plaintiff must still submit the first three pages of the application to proceed *in forma pauperis* on this Court's
27 approved form with his affidavit. If Plaintiff does not submit the first three pages of the application to proceed *in forma*
28 *pauperis* with the affidavit, the Court will dismiss the case without prejudice for Plaintiff to open a new case when he is
able to acquire the required documents.

1 Plaintiff shall **not** file multiple letters or objections regarding these requirements as this
2 imposes an unnecessary administrative burden on the Court and delays the ability of the Court to
3 address substantive issues in the case. Plaintiff shall simply file one affidavit.

4 The Court grants Plaintiff **one final extension** until on or before **September 21, 2020**, to file
5 a fully complete application to proceed *in forma pauperis* containing all three of the required
6 documents or, alternatively, the first three pages of the application to proceed *in forma pauperis* and
7 an affidavit detailing the efforts he took to acquire **both** a financial certificate and an inmate account
8 statement from prison officials. Absent unusual circumstances, the Court will not grant any further
9 extensions of time. If Plaintiff is unable to file a fully complete application to proceed *in forma*
10 *pauperis* with all three required documents or, alternatively, the first three pages of the application
11 to proceed *in forma pauperis* and an affidavit detailing the efforts he took to acquire **both** a financial
12 certificate and an inmate account statement from prison officials on or before **September 21, 2020**,
13 the Court will dismiss this case **without prejudice** for Plaintiff to file a new case with the Court when
14 Plaintiff is able to either acquire all three of the documents needed to file a fully complete application
15 to proceed *in forma pauperis* or, alternatively, the first three pages of the application to proceed *in*
16 *forma pauperis* and an affidavit detailing the efforts he took to acquire **both** a financial certificate
17 and an inmate account statement from prison officials.

18 A dismissal **without prejudice** means Plaintiff does not give up the right to refile the case
19 with the Court, under a new case number, when Plaintiff has either all three documents needed to
20 submit with the application to proceed *in forma pauperis* or, alternatively, the first three pages of the
21 application to proceed *in forma pauperis* and an affidavit detailing the efforts he took to acquire **both**
22 a financial certificate and an inmate account statement from prison officials. Plaintiff may also
23 choose not to file an application to proceed *in forma pauperis* and instead pay the full filing fee of
24 \$400 on or before **September 21, 2020** to proceed with this case.

25 The Court will retain Plaintiff's civil rights complaint (ECF No. 1-1), but the Court will not
26 file the complaint unless and until Plaintiff timely files a fully complete application to proceed *in*
27 *forma pauperis* with all three documents, or, alternatively, the first three pages of the application to
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1 proceed *in forma pauperis* and an affidavit detailing the efforts he took to acquire both a financial
 2 certificate and an inmate account statement from prison officials, or pays the full \$400 filing fee.

3 **II. CONCLUSION**

4 For the foregoing reasons, IT IS HEREBY ORDERED that the Clerk of the Court shall send
 5 Plaintiff the approved form application to proceed *in forma pauperis* by an inmate, as well as the
 6 document entitled information and instructions for filing an *in forma pauperis* application.

7 IT IS FURTHER ORDERED that on or before **September 21, 2020**, Plaintiff shall either
 8 pay the full \$400 filing fee for a civil action (which includes the \$350 filing fee and the \$50
 9 administrative fee) or file with the Court:

10 (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this Court's
 11 approved form (i.e. pages 1 through 3 of the form with the inmate's two signatures on page
 12 3),

13 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official
 14 (i.e. page 4 of this Court's approved form), and

15 (3) a copy of the **inmate's prison or jail trust fund account statement for the previous**
 16 **six-month period**. If Plaintiff has not been at the facility a full six-month period, Plaintiff
 17 must still submit an inmate account statement for the dates he has been present at the facility.

18 Alternatively, Plaintiff shall file with the Court the first three pages of the application to
 19 proceed *in forma pauperis* and an affidavit detailing the efforts he took to acquire both a financial
 20 certificate and an inmate account statement from prison officials.

21 IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete application to
 22 proceed *in forma pauperis* with all three documents or, alternatively, the first three pages of the
 23 application to proceed *in forma pauperis* and an affidavit detailing the efforts he took to acquire both
 24 a financial certificate and an inmate account statement from prison officials, or pay the full \$400
 25 filing fee for a civil action on or before **September 21, 2020**, the Court will dismiss this action
 26 without prejudice for Plaintiff to refile the case with the Court, under a new case number, when
 27 Plaintiff has all three documents needed to file a complete application to proceed *in forma pauperis*.
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1 IT IS FURTHER ORDERED that the Clerk of the Court will retain the complaint (ECF No.1-
2 1) but will not file it at this time.

3 Dated this 22nd day of July, 2020

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5 ELAYNA J. YOUCHAH
6 UNITED STATES MAGISTRATE JUDGE
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